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Secretary:

Committee Secretary
Standing Committee on Family and Community Affairs
Child Custody Arrangements Inquiry
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Dear Sir / Madam

I am writing to express my strong support for the proposals to increase 50/50 joint residency arrangements for children in separated families. This is a proposal that is long overdue.

I have been married twice. In my first marriage there were no children. From my second marriage there was one child, [REDACTED] who is now nine years old.

In 1998 when my second marriage broke down my main concern was having time with my son. I welcome the move for instituting a 50/50 shared residency arrangement for the parents and children of the relationship.

Where the 50/50 shared residency arrangement is not in place then there is a disproportionate effect on the separated parents and children of the marriage. I maintained that the best and the most desirable outcome for the parents separating was for each parent to have as equal as possible time with the children.

I find that whilst divorce has been deemed to be a 'no fault' situation that the idea of 'no fault' is limited in its effect. To be truly a 'no fault' system then financially and with residency arrangements there should also be no disadvantage to each of the partners or to the children. I find that the children suffer and may become torn between the parents where bitterness, revenge or anger clouds the judgment, feelings or actions of the partners post separation.

In my case my partner said words to the effect that she wanted there to be no involvement whatsoever by me in the life of my son. My position all through family law action for property and residency was that there be a 50/50 shared residency arrangement with my son. I consider that where one or both parents show willingness, 50/50 shared residency arrangements should be instituted unless there are compelling reasons to depart from these arrangements.

I consider that if such measures were likely to be put into place post separation, that such knowledge in the minds of the partners may alter the likelihood of separation. I consider that there could be a likelihood that partners would further consider their positions if the system moved from the 'winner takes all' situation that now appears to be the case.

At present there may be a strong incentive for the person wishing to leave a relationship to obtain legal representation and to take legal moves to claim property and full-time custody of the children and to leave a non custodial parent with greatly diminished resources, onerous child support obligations and reduced ability to provide adequately for child residency periods.

I consider that where there is a formula for post separation 50/50 shared residency arrangements then the incentive is reduced and possibly removed for vindictive and calculated moves of one partner towards the other.

Where there are concerns that children should have a stable home life with a routine and continuity, I consider that partners can cooperate for the benefit of the children of their relationship. The children can remain in the family home and the partners can then cycle from the family home to other outside accommodation. In this way the parents are the mobile part of the family. The children have their own rooms and routine and are familiar in the area with school and their friends. The alternative accommodation on the week about can be the same accommodation so that the partners could alternate week about in that accommodation.

I consider that where people talk of these arrangements being unworkable, it is a matter for the partners to accept responsibility for the changed lives and roles that have occurred post separation and accept the consequences for the benefit of the children in the longer term.

In all of these discussions for divorce in Australia I wish you well in your deliberations. The time of relationship breakdown is a period of major crisis in the lives of all concerned. In times of crisis it is often very difficult to apply one's mind for the longer-term benefit of all the parties involved. By its very nature, a time of crisis is a time when it is difficult to think clearly and consider all relevant issues for the benefit of those involved. The time of relationship breakdown is a time of grieving, an increase in mood swings and times where emotions run high and low. I consider that in such circumstances an increased ability for the institutions of Australia to smooth the way for the transition to apply a formula for 50/50 shared residency arrangements for the benefit of all the parties involved would be of great benefit.

I consider that a codified approach to family law in the 50/50 shared residency arrangements and the use of the assessed joint property for mutual benefit should be instituted from the time of the breakdown of the relationship. I consider that 50/50 shared residency arrangements should be put in place immediately and perhaps a review instituted after a period of two years. I consider that in these circumstances the transition from the relationship to the new post separation living arrangements would be made smoother and more harmonious. I consider that in such circumstances the prior knowledge by the partners of the likely post separation arrangements may mean that there would be an incentive for working on the relationship. Some motivation may be removed for the partner contemplating leaving the relationship to take legal action and spend possibly large amounts of the assets of the relationship in Family Court actions.

In my case, the legal fees for my first separation were around \$5000. The legal fees for my second separation passed \$70,000. In my view, the resulting arrangements for residency were sub optimal. I have my son for four days per fortnight from Thursday to Monday mornings and half the school holidays. My expressed desires for 50/50 shared residency arrangements were met with skepticism from Family Court counsellors and other officers.

My son is nine years old and this residency arrangement for four days per fortnight from Thursday to Monday mornings and half the school holidays is likely to continue for a further nine years. I am advised that any changes in residency arrangements would involve demonstrating changes in circumstances, views of all concerned and would involve additional legal fees.

I dearly wish that 50/50 residency arrangements were in place at the time of my separation. I consider that with a 50/50 residency arrangement I would feel that I had the best opportunity of optimally parenting my child and building firm bonds in his growing and developing years post separation.

Yours sincerely,

29 July 2003